

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA**

(1) DONITA BARNES, individually	)	
and as next of kin of CYNTHIA KAY	)	
HORTON, deceased,	)	
	)	
Plaintiff,	)	
vs.	)	Case No. 13-cv-516-SPS
	)	
(1) UNITED STATES OF AMERICA;	)	
(2) AUGUSTIN H. SHI, M.D.; and,	)	
(3) PRESTON D. HUCKS, M.D.,	)	
	)	
Defendants.	)	

**COMPLAINT**

COMES NOW the Plaintiff, Donita Barnes, individually and as next of kin of Cynthia Kay Horton, deceased, and alleges and states as follows:

**JURISDICTION AND VENUE**

1. The Plaintiff in this action is Donita Barnes, individually and as next of kin of Cynthia Kay Horton, deceased.
2. Plaintiff is a citizen and resident of the State of Oklahoma.
3. The United States of America is a Defendant, in its capacity as the responsible entity, pursuant to 25 U.S.C. §450f, *et. seq* and 28 U.S.C. §2671, *et. seq.*, (FTCA) for the actions of the Chickasaw Nation Medical Center, located in Ada, Oklahoma, and for the agents and employees of the Chickasaw Nation Medical Center.
4. At all times relevant to this action, the Defendant, Augustin H. Shi, M.D., practiced medicine in Ada, Oklahoma at the Chickasaw Nation Medical Center. At all

times relevant, he was an employee, agent and servant of the United States of America and practiced medicine at Chickasaw Nation Medical Center.

5. At all times relevant to this action, the Defendant, Preston D. Hucks, M.D., practiced medicine in Ada, Oklahoma at the Chickasaw Nation Medical Center. At all times relevant, he was an employee, agent and servant of the United States of America and practiced medicine at Chickasaw Nation Medical Center.

6. This Court has jurisdiction of this matter pursuant to 28 U.S.C. §2671, *et. seq.*, and pursuant to supplemental jurisdiction conferred upon this Court pursuant to 28 U.S.C. §1367(a).

7. The events about which Plaintiff complains took place at Chickasaw Nation Medical Center in Ada, Pontotoc County, Oklahoma, in the Eastern District of the United States District Court, sitting in Oklahoma.

8. Plaintiff has, heretofore, pursuant to the FTCA, filed a claim with the United States on March 20, 2013. No response was ever received from the United States and the claim was therefore deemed denied on September 20, 2013.

#### **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

9. Plaintiff's decedent, Cynthia Kay Horton, was a patient at Chickasaw Nation Medical Center during portions of August and September of 2011, where she received medical care and treatment from Defendants, Augustin H. Shi, M.D. and Preston D. Hucks, M.D. Said care was negligent and fell below the accepted standards of care. Said negligent medical care caused Cynthia Kay Horton's death on September 26, 2011.

The negligent treatment occurred at Chickasaw Nation Medical Center located in Ada, Oklahoma.

**FIRST CLAIM FOR RELIEF**

10. Plaintiffs incorporate Paragraphs 1 through 9 herein by reference.

11. Defendant, Chickasaw Nation Medical Center, acting by and through its agents, servants, and employees, had a duty to provide appropriate medical care to Cynthia Kay Horton during her visits to the Defendant Hospital in August and September 2011. Defendant Hospital failed in that duty.

12. Defendant Hospital was negligent in one or more particulars, and such acts and/or omissions, taken separately or collectively, constitute a proximate cause of the injuries and damages claimed in this lawsuit. The Defendant Hospital's negligence included, but was not limited to the following:

- a) failure to adequately train their physicians, nurses and other employees, servants and agents; and,
- b) failure to adequately supervise their physicians, nurses and other employees, servants and agents;

13. Defendant Hospital's negligence resulted in the death of Cynthia Kay Horton, therefore the Plaintiff, Donita Barnes, is entitled to recover damages.

14. Defendant Hospital is also vicariously liable for the acts and/or omissions of Augustin H. Shi, M.D. and Preston D. Hucks, M.D., as they were employees and agents of the Defendant Hospital at the time and were acting within the course and scope of their duties at the time of the treatment and care in question.

15. Defendants Shi and Hucks rendered medical care in a manner that was below accepted standards of medical care.

### **INJURIES AND DAMAGES**

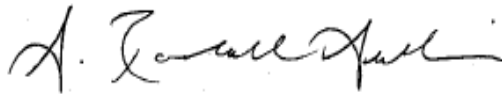
16. Plaintiffs incorporate Paragraphs 1 through 15 herein by reference.

17. The Defendants' negligence was a proximate cause of the death of Cynthia Kay Horton. Plaintiff, Donita Barnes, individually and as next of kin of Cynthia Kay Horton, deceased, demands judgment for general damages, including, but not limited to, pain and suffering, actual damages, compensatory damages, consequential damages, pecuniary damages, and punitive damages, from the Defendants.

### **PRAYER**

WHEREFORE, Plaintiff asks for damages in the amount of \$3,000,000.00, costs of this action, and for such further relief, at law or in equity, to which Plaintiff may be justly entitled.

Respectfully submitted,



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